REMARKS/ARGUMENT

Description of Amendments

Claims 28, 29, 31, 32 and 41-49 are pending.

Claims 1-27, 30 and 33-40 are canceled, Claims 28, 31, 29 and 43 are amended and new Claims 44-49 are added. No new matter is introduced by this amendment.

Support for the amendments to the claims and the new claims may be found at at least paragraphs [0045], [0047], [0051], and [0052] of U.S. Publication No. 2001/0013166.

Rejection under 35 U.S.C. §§ 102, 103

Claims 28, 29, 31, 32, 41 and 43 stand rejected under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as being obvious over *Davidson* (5,477,864).

Davidson is directed to an alloy material that may be used for medical implants, including stents. On col. 4, ll. 54-67 and col. 7, ll. 33-39 *Davidson* discusses ways in which a "porous coating", in the form of "beads" or "wire coating" can be applied or attached to a surface of the alloy by sintering or plasma spraying. Col. 7, ll. 55-59 of this reference states that implants may be surface coated with medications or agents. FIGS. 11-12 depict a stent.

The Official Action maintains that *Davidson* teaches the concept of a solid strut with a porous outer layer. Further, the Official Action concludes that the pore size under Claim 42 would have been obvious because it was known in the art to load pores with a therapeutic agent for delivery at the implantation site. Applicants traverse for the following reasons.

Claim 28 is directed to a stent comprising a strut element, wherein the strut element includes a solid metallic inner core having an inner side and an opposed, outer side, an outer layer disposed on the outer side, the outer layer being made from a first porous metallic material, and an inner layer disposed on the inner side, the inner layer being made from a second porous metallic material, wherein the strut is formed from a sheet such that the solid core causes fluid impregnated in the second porous layer to flow only in a radially inward direction after the stent has been implanted in a vessel.

Davidson does not disclose a stent having a strut formed from a sheet such that the solid core causes fluid impregnated in a second porous layer to flow only in a radially inward direction after the stent has been implanted in a vessel. *Davidson* merely makes a general statement concerning spraying or sintering material on a surface of an alloy. Moreover, to the extent *Davidson* discusses a stent, he merely states that the stent can be made of the disclosed alloy and that the stent can have "barbs" to grip soft tissue. *See* col. 12-13.

Anticipation under 35 U.S.C. § 102 requires that each limitation of a claim is found in a single reference either expressly or inherently. *See Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 77 USPQ2D 1321 (Fed. Cir. 2005). Since *Davidson* does not teach or suggest a strut formed from a sheet such that the solid core causes fluid impregnated in a second porous layer to flow only in a radially inward direction after the stent has been implanted in a vessel, it cannot anticipate Claim 28. For at least these reasons, Applicants respectfully request withdrawal of the rejection of Claim 28 under Section 102.

Claim 28 is also not obvious over *Davidson*. The Official Action concludes that it would have been obvious to create a porous surface with a solid core for impregnating a therapeutic agent. However, Applicants respectfully submit that there is no *prima facie* case made for a strut formed from a sheet such that the solid core causes fluid impregnated in a second porous layer to flow only in a radially inward direction after the stent has been implanted in a vessel as recited in Claim 28. *Davidson* contains no suggestion or motivation, nor is there any articulated in the Official Action, for why one of ordinary skill in the art would have found it obvious to have a strut formed from a sheet such that the solid core causes fluid impregnated in a second porous layer to flow only in a radially inward direction after the stent has been implanted in a vessel. For at least this reason Applicants respectfully ask that the rejection of Claim 28 under 35 U.S.C. § 103(a) be withdrawn.

Claim 31 is directed to stent comprising a solid metallic region and a porous metallic region disposed on the solid metallic region, and first and second ends disposed along a

longitudinal seam of the stent, wherein the first and second ends are opposing ends of a sheet from which the porous and solid regions were formed.

Davidson does not anticipate Claim 31 at least because *Davidson* does not teach or suggest first and second ends disposed along a longitudinal seam of a stent, wherein the first and second ends are opposing ends of a sheet from which porous and solid regions of the stent were formed. Claim 31 would also not have been obvious over *Davidson* under 35 U.S.C. § 103(a). *Davidson* contains no suggestion or motivation, nor is there any articulated in the Official Action, for why one of ordinary skill in the art would have found it obvious to have a first and second ends disposed along a longitudinal seam of a stent, wherein the first and second ends are opposing ends of a sheet from which porous and solid regions of the stent were formed.

For the above reasons, Applicants respectfully ask that the rejections of Claim 31 under 35 U.S.C. §§ 102, 103(a) be withdrawn.

For the above reasons, Applicants respectfully ask that all standing rejections of Claims 28 and 31 be withdrawn and these claims allowed.

Rejection under 35 U.S.C. § 103

Claim 42 stands rejected under 35 USC 103(a) as being unpatentable over *Davidson* (5,477,864). Applicants submit that Claim 42 would not have been obvious because the claim from which it depends is not obvious over *Davidson*.

New Claim 44

New Claim 44 is patentable over the art of record. This claim recites A stent comprising: a sheet having opposed ends and forming a cylinder, the sheet including a solid core and a porous layer disposed on the core, and a seam connecting the opposed ends along a length of the stent. Allowance of Claim 44 is earnestly solicited.

Claim(s) 29, 32, 41-43 and 45-48 depend(s) from Claim(s) 28, 31, and 44 respectively and recite(s) additional features that further distinguish Applicants' invention over the art of record. However, it is not necessary to point out the additional features recited in these dependant claims. Because Claims 29, 32, 41-43, and 45-48 depend from allowable claims, they are also allowable. For this reason, Applicants ask that all standing rejections of Claim(s) 29, 32, and 41-43 under 35 U.S.C. §§ 102 and 103, respectively, be withdrawn, and Claims 29, 32, 41-43 and 45-48 allowed.

Conclusion

In light of the foregoing remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 07-1850.

Respectfully submitted,

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